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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,861	12/27/2001	Robert E. Beach	SBL00798-C01	9518
22917	7590	12/24/2009		
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			EXAMINER SHEDRICK, CHARLES TERRELL	
			ART UNIT 2617	PAPER NUMBER
			NOTIFICATION DATE 12/24/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

### Office Action Summary

**Application No.**

10/033,861

**Applicant(s)**

BEACH ET AL.

**Examiner**

CHARLES SHEDRICK

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-29 and 32-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-29 and 32-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/09 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims **24-29 and 32-35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Diepstraten et al. US Patent No.: 5,329,531, hereinafter, "Diepstraten" in view of Jorgensen US Patent Pub. No.: 2007/0038751 A1, and further in view of Regnier et al. US Patent Pub. no.: 2005/0058147, hereinafter, 'Regnier'.

Consider claims 24 and 25, Diepsraten teaches a Method and An access point that provides voice and data communications for use in a wireless local area network having a plurality of mobile units(**i.e., Iso-synchronous and Asynchronous Traffic**)(e.g., **see at least the abstract of disclosure and col. 2 lines 15-34**), said access point being configured to: receive signals carrying communications packets directed to particular mobile units(**e.g., see at least base stations and mobile stations noted with respect to figure 1**); prioritize said communications packets for transmission based on: whether a current packet is a voice communication packet(**i.e., iso vs asynch traffic**)(e.g., **see at least col. 2 line 15-col. 3 line 37**); the total number of packets transmitted to each mobile unit(**i.e., see amount of data within available time and frame period**)(e.g. **see at least col. 2 line 15 -col. 3 lines 37 and col. 6 lines**

**60-65** ); and the order in which the packets were received by the access point(e.g. **see at least col. 2 line 15 -col. 3 lines 37 and col. 6 lines 60-65**)(i.e., **packet sequence and priority**).

However, Dieprateten does not specifically teach a network management packet and wherein the some packets are prioritized higher than the voice communication and the voice communication packet is prioritized higher than the other communications packet.

In analogous art, Jorgensen teaches teach a network management packet and wherein the network management packet is prioritized higher than the voice communication and the voice communication packet is prioritized higher than the other communications packet(**i.e., Latency sensitive traffic is given higher priority that various packets**)(e.g., **see at least paragraphs 0048- traffic types, paragraphs 0131-0132 – prioritize jitter sensitive traffic, 0164 – packets sensitive to latency, paragraph 0175, 0360 – prioritizing voice or data, paragraph 0411, paragraph 0485 – packet assigned based on priority in time slots, paragraphs 0486-0488**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dieprateten to include a network management packet and wherein the network management packet is prioritized higher than the voice communication and the voice communication packet is prioritized higher than the other communications packet for the purpose of optimizing latency of sensitive traffic flows as taught by Jorgensen.

However, Dieprateten as modified by Jorgensen does not explicitly indicate that Network management packet with higher priority.

In analogous art, Regnier teaches that Network management packet with higher priority (**i.e., the higher priority can be assigned to network management packets for administrative purposes - paragraph 0029**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dieprateten as modified by Jorgensen to include where the network management packets have the higher priority over other packets including data and voice for the purpose of administrative type communication.

Consider **claims 26 and 32**, Dieprateten teaches a method and a transmitter for use in a carrier sense multiple access communications system(e.g., **see at least abstract of disclosure**), said transmitter being configured to: receive signals carrying communications packets directed to particular receiver units(e.g., **see at least base stations and mobile stations noted with respect to figure 1**); prioritize said communications packets for transmission based on: whether a current packet is a voice communication packet(i.e., **iso vs asynch traffic** )(e.g., **see at least col. 2 line 15-col. 3 line 37**); the total number of packets transmitted to each receiver unit; and the order in which the packets were received by the transmitter(e.g. **see at least col. 2 line 15 -col. 3 lines 37 and col. 6 lines 60-65**); and use a contention window of a first duration for transmitting packets that are for voice communications(i.e., **using a medium access procedure to share medium**)(e.g. **see at least col. 2 line 15 -col. 3 lines 37 and col. 6 lines 60-65**); and use another contention window of a second duration that is different from said first duration for transmitting other packets(i.e., **see amount of data within available time, frame period and using a medium access procedure to share medium**)(e.g. **see at least col. 2 line 15 -col. 3 lines 37 and col. 6 lines 60-65**).

However, Dieprateten does not specifically teach a network management packet and wherein the some packets are prioritized higher than the voice communication and the voice communication packet is prioritized higher than the other communications packet.

In analogous art, Jorgensen teaches teach a network management packet and wherein the network management packet is prioritized higher than the voice communication and the voice communication packet is prioritized higher than the other communications packet(**i.e., Latency sensitive traffic is given higher priority that various packets**)(e.g., see at least paragraphs 0048- traffic types, paragraphs 0131-0132 – **prioritize jitter sensitive traffic**, 0164 – **packets sensitive to latency**, paragraph 0175, 0360 – **prioritizing voice or data**, paragraph 0411, paragraph 0485 – **packet assigned based on priority in time slots**, paragraphs 0486-0488).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dieprateten to include a network management packet and wherein the network management packet is prioritized higher than the voice communication and the voice communication packet is prioritized higher than the other communications packet for the purpose of optimizing latency of sensitive traffic flows as taught by Jorgensen.

However, Dieprateten as modified by Jorgensen does not explicitly indicate that Network management packet with higher priority.

In analogous art, Regnier teaches that Network management packet with higher priority (**i.e., the higher priority can be assigned to network management packets for administrative purposes - paragraph 0029**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dieprateten as modified by Jorgensen to include where the network management packets have the higher priority over other packets including data and voice for the purpose of administrative type communication.

Consider claims **27 and 33 and as applied to claims 26 and 32**, Diepstraten as modified by Jorgensen and further modified by Regnier teaches wherein the first duration is shorter than the second duration(e.g., **see at least col. 5 lines 6-16 and window size for time slots noted in at least col. 6 lines 56 - col. 7 line 7**).

Consider claims **28 and 34 and as applied to claims 26 and 32**, Diepstraten as modified by Jorgensen and further modified by Regnier wherein said transmitter is an access point of said communications system(e.g., **see at least context of base station in figure 1**).

Consider claims **29 and 35 and as applied to claims 26 and 32**, Diepstraten as modified by Jorgensen and further modified by Regnier teaches wherein said transmitter is a remote terminal in said communications system(e.g., **see at least context of station in figure 1**).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES SHEDRICK whose telephone number is (571)272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles Shedrick/  
Examiner, Art Unit 2617